

The Changing Korean Peninsula and the Future of East Asia
Co-hosted by
Center for Northeast Asian Policy Studies, The Brookings Institution
Seoul Forum of International Affairs
JoongAng Ilbo

December 1, 2005

**“Six Party Talks Update:
False Start or a Case for Optimism?”**

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Round Four – A Case for Optimism?

The success of round four of the Six Party process is due in large measure to a reversal in the manner in which the Bush administration approached and carried out its North Korea policy within the multilateral talks framework. Heretofore, the first term of the Bush presidency was marred by overt strife in its policy approach to North Korea from within its own ranks. The fourth round of talks gave rise to cautious optimism – at least from a procedural point of view – that the administration had rejected the failed policy approach of the first four years and was committed to giving serious diplomacy a try.

After a hiatus of thirteen months Pyongyang announced on July 8, 2005, that it was ready to return to six party talks. Instead of the normal routine of meeting in plenary session for three days of unproductive talks and then haggling over unremarkable language in a Chairman’s Statement, a rejuvenated negotiating process unfolded over a 20-day period in Beijing, beginning in late July 2005.

The conduct of Ambassador Hill and what he was allowed to do was responsible for the first-ever two-week period of negotiations during the Bush administration. Objectively, the trilateral session involving the United States, China and North Korea in April 2003 and the first three rounds of six party talks cannot be considered negotiations. In contrast, the fourth round can reasonably be described as the start of actual negotiations. While Secretary Rice vehemently denies any change from the preceding rounds of talks, the stark difference between round three and round four lies in Ambassador Hill’s commitment from Rice for him to conduct professional negotiations including unrestricted bilateral talks with North Korea within the context of the six party framework.

Part of the decision to engage Pyongyang meant that the administration had to control its rhetoric. When the President referred to North Korean leader Kim Jong-il as "Mister" Kim Jong-il, rather than some

of the other derogatory terms that have been used in the recent past -- such as “dictator” and “tyrant” – the North Koreans took notice.

While members of the administration periodically and publicly recite “no hostile intent” or, even as Secretary Rice did in her April 2005 Asia trip, refer to U.S. respect for the sovereignty of North Korea and other phrases meant to convey a sense of commitment to diplomacy, Pyongyang routinely dismisses these utterances as opportunistic or lacking appropriate authority. Once the decision was made to change administration policy and seriously engage North Korea, the State Department used the New York channel to convey in an official manner those things that had been said previously in public. Most importantly, the Department repeated, as an official U.S. message to Pyongyang, the United States recognition of the sovereignty of North Korea. It is one thing to say it; it is another to package it as part of an official message through official channels and present it to North Korea.

During an impromptu call telephone conversation between Ambassador Hill and North Korean Deputy Head of Delegation Li Gun (in New York for a conference) in Late June 2005, Hill arranged to meet privately with his negotiating counterpart, Vice Minister Kim Gye Gwan, in Beijing on July 9th in advance of the opening of the fourth round of Six Party Talks.

That Hill had taken the initiative to get to know his counterpart, struck a positive chord with the North Koreans. Up until then, they only had second-hand information about Ambassador Hill. They had followed what he had to say publicly, but now they were going to have an opportunity, first-hand, to make their own judgment as to how he would be dealing with them on a professional basis. Until that point, the North Koreans were sending mixed signals about the future of the Six Party process. On the one hand, Kim Jong-il had signaled his readiness to return to talks, but he also was hedging his bets when he confided to South Korean Unification Minister Chung Dong-young on June 17th that he wanted to wait out the remaining three years of the Bush administration.

Maintaining the authority of the Six Party structure, but minimizing non-productive plenary sessions was the aim of Ambassador Hill. As a result, the opening of the fourth round of Six-Party Talks was a 30-minute opening meeting and then the parties moved directly into substantive bilateral discussions. The North Koreans were significantly impressed with

this approach and began talking positively about it. The manner in which Ambassador Hill went about his business in both the plenary sessions and in the bilaterals with the North Koreans kept the North Koreans engaged over the initial 13-day period of the fourth round.

One of the priorities for Ambassador Hill was the creation of a statement of principles to guide the process. He believed that if everyone could agree on what is important, then what follows in the serious negotiation will come far more rapidly. Shaping his initial thought process was a desire to establish basic principles that, once agreed to, would not have to be constantly renegotiated or redefined as the talks proceeded.

After 13 unprecedented days of mostly a series of bilateral talks, a recess was called. The Chinese, as hosts, acted as the secretariat for the talks and produced four drafts of a statement of principles. They tried to find common language that each of the delegations had emphasized. Toward the end of the first part of the fourth round, around day 10 or 11, North Korean Head of Delegation Vice Minister Kim Gye Gwan introduced Pyongyang's demand for a Light Water Reactor (LWR). Up to that point, the talks had bogged down on the theoretical right of North Korea to have a peaceful nuclear energy program. The U.S. position started out in stark terms: North Korea did not have the right to any kind of nuclear program, peaceful or otherwise. Toward the end of the negotiating session, the U.S. position had clarified to the point that it accepted North Korea's sovereign right to peaceful nuclear energy once it had dismantled its nuclear weapons programs, rejoined the NPT and was in compliance with IAEA safeguards; but ultimately the United States did not want North Korea to exercise that right – ever.

At the time of the recess of the fourth round, The United States' position of opposing Pyongyang's (eventual) right to peaceful nuclear energy placed it in a minority of one and threatened to erase the positive gains that Ambassador Hill had accomplished. The more the United States finds itself isolated from the mainstream of its four other allies and friends in the Six Party Talks on this issue, the more likely Pyongyang will dig in its heels, and demand peaceful nuclear energy.

With little prospect of breaking this emerging deadlock, a recess was called on August 7 with all parties agreeing to resume during the week of August 29. Because of North Korean military objections to a joint US-ROK

military exercise, North Korean diplomats were not allowed to return to the second phase of round four of the talks as promised. The Korean Peoples Army (KPA) insisted on a 10 day penalty beyond the end of the US-ROK exercise before allowing the diplomats to reconvene on September 13.

Round Four – Reconvened

Assistant Secretary Hill met with the press before traveling to Beijing for the reconvened fourth round of talks. He was asked, “If it is only a theoretical issue, do you see any possibility that eventually, you agree to disagree and set aside these topics during this round or it must be definitely included in the so-called statement of principle?” Hill was fairly clear in his response that the administration was not interested in entertaining the prospects of a North Korean civilian nuclear program. He said, “Well, I think it has to be addressed and what we're not interested in is really creating ambiguity. Nuclear weapons, nuclear programs are not something that one should leave in an ambiguous state, so -- no pun intended. But anyway, the - - we have to address these things and we will.”ⁱ

Once the talks began, Hill began signaling a slight change in U.S. policy. When asked about a potential North Korean peaceful nuclear program, he said, "When we can achieve an agreement on that (the dismantlement of the North's nuclear weapons program), and when we do that, we can look at some of these other questions." ⁱⁱ But by Friday, September 16th, the *Washington Post* was reporting, “U.S. and North Korean diplomats acknowledged an irreconcilable deadlock Thursday in long-stalled nuclear disarmament talks, casting doubt on the future of Chinese-sponsored six-party negotiations.”ⁱⁱⁱ The Chinese set a deadline for the negotiators to agree to the latest (fifth) draft of joint statement of principles,^{iv} but things did not look promising. North Korea held tough to its demand for a LWR rejecting the South Korean offer of conventional energy and purportedly threatening to extract additional plutonium if its demands were not agreed to.^v Frustration was rising. Hill commented, "It has been very obvious to us they are not interested in economic assistance, they seem to be interested in a light water reactor as a sort of trophy."^{vi}

The Chinese had, in good faith, attempted to find common ground throughout the 20 days of negotiations and the five drafts. By Friday September 16, the Chinese were at a crossroads. It seemed as if the North Koreans and Americans would continue a circular discussion without ever

coming to closure, threatening the future of the talks itself. Beijing has always viewed the six party process as a commitment that would take many rounds of discussions and perhaps years to come to a successful conclusion. The prospect of failure loomed large. According to reports coming out of Beijing, the Chinese were prepared to force the hand of both the United States and North Korea, telling the U.S. delegation that it was isolated in its opposition to a future North Korean peaceful nuclear energy program and if the U.S. did not sign the latest draft – without changes – the U.S. would be blamed for the breakdown of the talks.^{vii}

Faced with the prospect of being blamed for its intransigence and the potential failure of the talks, the administration reviewed its options. The administration would have to come to grips with its opposition to North Korea's demand for an LWR, because the draft declaration included in the first of six points direct reference to an LWR:

“The DPRK stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss at an appropriate time the subject of the provision of light-water reactor to the DPRK.”

Secretary Rice was in New York City meeting with her counterparts on the margins of the United Nations General Assembly. Faced with a tough decision, she came up with a solution that would allow the United States to sign on to the Chinese draft and keep the momentum of the talks alive, but still allow the U.S. to parse the diplomatic language publicly in a way that suited its own needs. Rice got her Japanese and Korean counterparts to agree to this approach, although, according to the *New York Times*, the South Koreans were concerned that an explicit U.S. statement would “sour” the atmosphere.^{viii}

A case can be made that the South Koreans were correct. A day after the joint statement was agreed to and released in Beijing, Pyongyang issued its own statement:

As clarified in the joint statement, we will return to the NPT and sign the Safeguards Agreement with the IAEA and comply with it immediately upon the U.S. provision of LWRs, a basis of confidence-building, to us. What is most essential is, therefore, for the U.S. to provide LWRs to the DPRK as early as possible as evidence proving the former's substantial recognition of the latter's nuclear activity for a peaceful purpose. The U.S. should not even dream of the issue of the DPRK's dismantlement of its nuclear deterrent before providing LWRs, a physical guarantee for confidence-building. This is our just and

consistent stand as solid as a deeply rooted rock. We have so far shaped our policies towards the U.S. hardliners and will do so in the future, too.^{ix}

In response to the North Korean Foreign Ministry statement, Assistant Secretary Hill said, "They knew exactly what was" in the deal. They didn't like some of the aspects of it, but they knew it was a good deal for them and they took it. The fact that they continue to negotiate after the deal is hardly surprising.... They're sort of spouting off to internal audiences."^x There is a certain amount of 'playing to your domestic audience' in the North Korean statement, just as there is in the U.S. statement. I believe the North Koreans understood the U.S. position that a discussion on an LWR would come at an appropriate time and that appropriate time would come after a verified denuclearization and reentry to the NPT in good standing. What the North Koreans did not understand or expect were much the same things that Chris Hill did not expect when he was given the U.S. statement as a *fait accompli*.

While the joint statement had no explicit reference to the North Korean uranium program, the implied reference to uranium was embedded in the joint language. Certainly, "all nuclear weapons and existing nuclear programs" and reference to the 1992 joint declaration (which explicitly prohibited enriched uranium) was meant to hold North Korea accountable for its uranium enrichment program.

It appears that the U.S. statement was actually written by the more "hard-line" element in the administration opposed to meaningful engagement with Pyongyang while Hill was busy negotiating behind the scenes with the Chinese, Russians, Japanese and South Koreans. Hill was trying to achieve an understanding that if the U.S. signed the draft joint statement, that the others would not undermine the U.S. by discussing (or providing) an LWR until after Pyongyang had rejoined the NPT. While Hill was occupied negotiating in Beijing, the Under Secretary of State for Arms Control and International Security took the lead in crafting the U.S. statement. The U.S. statement included the definition of "appropriate time" as occurring only "when the DPRK has come into full compliance with the NPT and IAEA safeguards, *and has demonstrated a sustained commitment to cooperation and transparency and has ceased proliferating nuclear technology.*" This particular loophole suggests that the United States alone will make the determination when Pyongyang has reached the appropriate level of "sustained commitment." In other words, not only does North Korea have to return to the NPT and come into compliance with IAEA safeguards,

it has to satisfy an arbitrary – but unspecified – goal set by the United States before even a ‘discussion of the subject of the provision of an LWR’ can take place. The U.S. statement also makes clear that “the DPRK’s statement concerning its “right” to the peaceful uses of nuclear energy should be premised upon completion of verification of the DPRK’s elimination of all nuclear weapons and existing nuclear programs and full compliance with the NPT and IAEA safeguards.”^{xi}

A review of the U.S., Japanese and ROK statements shows common language where Ambassador Hill worked to reach agreement on the need for Pyongyang to return to NPT and IAEA safeguards before an LWR could be discussed. What is prominently different is the added language that is found at the end of the U.S. statement and not found in any of the other statements, written without Hill’s input.

The North Korean position regarding its sovereign right to peaceful nuclear energy was clear during the talks. Pyongyang asserted that it had a right now and in the future to peaceful nuclear energy and that as a sovereign nation that right did not depend upon its status in the NPT, much as India, a non-NPT nation, had the right to peaceful nuclear energy. Pyongyang also cited U.S. support to India’s peaceful nuclear energy program to bolster its claim.

Were it not for the U.S. statement clarifying the deliberately ambiguous language of the Joint Statement on Agreed Principles, one could make the case that turnaround in U.S. policy and the sterling performance of Ambassador Chris Hill were clear signals that the Bush administration had finally figured out how to conduct diplomacy and could well be headed in the right direction. However, for an administration that is so avowedly opposed to the possession (let alone being part of a discussion on the provision) of a LWR by North Korea, it was probably a strategic mistake to make the tactical decision to sign the Joint Statement of September 19 that contained the promise of a serious discussion of a future LWR for Pyongyang.

Round Five – Or a False Start?

At the conclusion of the fourth round of talks, Hill made it clear that he would like to visit Pyongyang before the November fifth round of talks got underway. There were initial rumors that Pyongyang had set conditions

upon which Hill would have to meet before he would be invited to visit. That sounded very unlikely, but in the end it turned out that conditions indeed had been set for a potential Hill trip to Pyongyang. Unfortunately, the conditions were set by the Vice President (or so the reporting goes). According to usually reliable sources, Hill was told that he had to get something in return for his visit: that Pyongyang had to shut down its operations at Yongbyon (in advance of a Hill visit). That message was conveyed to the North Koreans through the New York channel. The response from Pyongyang was that shutting down Yongbyon was not an option, but Hill was welcome to visit without preconditions. Hill chose to drop the matter, but he did pick up on the new talking point coming out of the Vice President's office: Pyongyang should shut down its reprocessing activities at Yongbyon: "The time to stop reprocessing, time to stop that reactor, is now, and once that stops we look forward to the DPRK making a declaration on what it has for nuclear programs and get on to the task of ridding the Korean Peninsula of the very dangerous material," Hill said.^{xii}

The call for Pyongyang to stop reprocessing is a bit confusing since the North Korean completed reprocessing in late August or early September the last of the spent fuel that was removed from the 5 MWe reactor in April and May 2005. The 5 MWe reactor was reloaded in late May with the last of the new fuel that remained from the Agreed Framework Freeze of 1994. It will be at least another year before there is the potential to extract through reprocessing even one more weapon's worth of plutonium.

After the fourth round was concluded the administration formally accused North Korea of manufacturing high-quality counterfeit \$100 "supernotes" for the first time.^{xiii} As a part of the action focused on counterfeiting, the Treasury Department sanctioned a bank based in Macao, Banco Delta Asia, with money-laundering, saying it was aiding North Korea's black-market dealings.^{xiv} In October, the U.S. Department of the Treasury designated eight North Korean companies under a new executive order, Executive Order 13382, freezing the assets of proliferators of weapons of mass destruction (WMD) and their delivery vehicles. The action prohibits all transactions between the companies involved and any U.S. person and freezes any assets the companies may have under U.S. jurisdiction.^{xv}

In describing these and other efforts, Undersecretary of States for Arms Control, Bob Joseph said, "These measures are necessary for our

defense and the defense of our friends and allies," He also said the measures "are independent of the diplomatic efforts that we are pursuing" with the North that also include China, Russia, Japan and South Korea. "We believe that they will reinforce the prospect for the success of those talks."^{xvi}

However appropriate the measures were independent of the six party talks, they did not appear to "reinforce the prospect for success" during the fifth round of talks, November 9-11, 2005. The fifth round ended without significant progress and little substantive discussion about nuclear dismantlement. Vice Minister Kim Gye Gwan emphasized the need for simultaneous action in the implementation of the September 19 Joint Statement. What he probably heard rather than an unambiguous reaffirmation of the Joint Statement's fifth point ("The six parties agreed to take coordinated steps to implement the aforementioned consensus in a phased manner in line with the principle of 'commitment for commitment, action for action.'"), was the comment by National Security Advisor Stephen Hadley aboard Air Force One enroute Asia with the President when he reiterated that the U.S. will continue to adhere to a policy of no economic aid for North Korea before it gives up its nuclear programs.^{xvii} This was followed the next day by Secretary Rice who criticized what ROK Unification Minister described as North Korea's Five Point Proposal during the fifth round. Purportedly, Kim Gye Gwan put forth a roadmap that would suspend nuclear tests, ban nuclear relocation, ban further nuclear production, verifiably stop nuclear activities and dismantle, and return to the Nuclear Nonproliferation Treaty and International Atomic Energy Agency inspections.^{xviii} The Chosun Ilbo reported, "In a meeting with South Korean Foreign Minister Ban Ki-moon on the sidelines of the APEC forum in Busan, Rice said the North's demand at six-nation talks now in recess to be given aid in five stages as it dismantles its nuclear program was not helpful and could take up a lot of time."^{xix}

The fifth round ended with a brief Chairman's statement that reaffirmed that they would fully implement the Joint Statement in line with the principle of "commitment for commitment, action for action."^{xx} What the parties did not do was set a date for the next round of talks. When a date or target timeframe is not set, it usually means that Pyongyang is unhappy with the process and intends to use the date for a next round as leverage. In this case, Pyongyang's unhappiness was explicitly expressed by Vice Minister Kim Gye Gwan when he told Ambassador Hill that the sanctions levied against the bank of Macau and the eight North Korean companies were an

embodiment of U.S. hostile intent and that talks on denuclearization could not proceed without first removing this new obstacle. Kim proposed bilateral negotiations with the U.S. following the fifth round. Hill agreed to a meeting but insisted that there would not be negotiations. Hill told Kim that the U.S. would provide a briefing of U.S. law and what Pyongyang needed to do in these specific cases to have sanctions removed.

What is clear about the fifth round is that because of APEC, a serious discussion was not going to take place in a return to the pre-fourth round schedule of three day meetings. What is also clear is that there are two distinct U.S. policy tracks regarding North Korea occurring simultaneously. What is unclear is whether or not the two tracks are well coordinated. Track one, represented by the good-faith effort of Ambassador Hill, is committed in the short run to a negotiated settlement that takes into account the concerns of the other players. Track two, represented by Undersecretary Bob Joseph, is bent on cracking down on North Korea's illegal activities as well as enhancing the capabilities of the Proliferation Security Initiative (PSI). The second track is in the enviable position of being able to justify its actions based solely on the illegal actions of North Korea. Under these circumstances, it is difficult to argue within or without the administration that the second track actions are inappropriate.

The most chilling aspect of this reemerged bifurcation of U.S. policy toward North Korea is the potential that Ambassador Hill has lost a skirmish or two within the administration and in an effort to maintain his goal of best-effort negotiating, he has had to adopt some of the philosophy and language of the second track advocates. He has repeated as U.S. policy the additional language of the September 19 U.S. statement (beyond that which he negotiated as common language among the U.S., Japan, and the ROK) requiring Pyongyang to *demonstrate a sustained commitment to cooperation and transparency and has ceased proliferating nuclear technology*. He has also repeated the (purported) Vice President's requirement for North Korea to shut down Yongbyon (voluntarily, since the administration is opposed to negotiating a freeze of the facilities).

What remains to be seen is whether Bob Joseph has succeeded in capturing the lead in North Korea policy as he did in the first term or whether Ambassador Hill can rebound from events that began to slip out of his control beginning with the U.S. statement of September 19, 2005.

ⁱ Question and answer session with the press, September 11, 2005.

ⁱⁱ *Yonhap*, Beijing, September 14, 2005, "U.S. rejects N. Korea's demand for light-water reactor"

ⁱⁱⁱ *The Washington Post* September 16, 2005, "Talks Deadlock Over N. Korea's Demand for Reactor; U.S. Could Seek Sanctions at U.N." by Edward Cody.

^{iv} Agence France Presse, September 16, 2005, "China sets Saturday deadline for joint N.Korea document"

^v *ibid*

^{vi} *ibid*

^{vii} *The New York Times*, 20 September 2005, "U.S.-Korean Deal on Arms Leaves Key Points Open"

^{viii} *ibid*

^{ix} KCNA, Pyongyang, September 20, 2005, "Spokesman for DPRK Foreign Ministry on Six-Party Talks"

^x *Los Angeles Times*, September 21, 2005, "A Tilt toward N. Korea," by Sonni Efron

^{xi} North Korea – U.S. Statement, September 19, 2005, at the closing plenary of the Fourth Round of the Six Party Talks:

^{xii} *Yonhap*, BEIJING, Nov. 11, "N. Korea, U.S. to meet bilaterally during recess"

^{xiii} *Washington Times*, October 12, 2005, "U.S. Accuses North Korea Of \$100 Bill Counterfeiting"

^{xiv} *New York Times*, October 24, 2005, "U.S. Widens Campaign On North Korea"

^{xv} *US Fed News*, October 21, 2005, "Treasury targets N Korean entities for supporting WMD proliferation"

^{xvi} *New York Times*, October 24, 2005, "U.S. Widens Campaign On North Korea"

^{xvii} *Chsun Ilbo*, November 15, 2005, "N.Korea Tops Agenda of Bush's Asia Trip"

^{xviii} *Yonhap*, November 14, 2005, "Pyongyang unveils five-step road map for nuke disposal"

^{xix} *Chosun Ilbo*, November 16, 2005, "Rice Slams N.Korea's Roadmap to Denuclearization"

^{xx} *Xinhuanet*, Beijing, November 11, 2005.